

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 96-699

April 23, 1997

PUBLIC UTILITIES COMMISSION
Inquiry Into Whether Incumbent
Local Exchange Carriers Should Be
Required to Provide Their Customers
with an Opportunity to Terminate
Special Contracts, Pursuant to
Request for Rulemaking by Freedom
Ring Limited Liability Company

NOTICE OF INQUIRY

WELCH, Chairman; NUGENT and HUNT, Commissioners

On November 12, 1996, pursuant to 5 M.R.S.A. § 8055, Freedom Ring Limited Liability Company (Freedom Ring) filed a request with the Commission to initiate a rulemaking. Although we will not open a rulemaking at this time, we open this Inquiry.

Freedom Ring has been authorized pursuant to 35-A M.R.S.A. § 2102 to provide intrastate local exchange and interexchange service in the State of Maine. Freedom Ring has requested that we propose a rule "requiring that incumbent local exchange carriers (ILECs) provide their customers with a 'fresh look' opportunity to be freed from the restrictions of long term contracts that would otherwise prevent competitive local exchange carriers (CLECs) from competing for the customer's business." In the alternative, Freedom Ring requested that we open an Inquiry pursuant to PUC Rules, Ch. 110, Part 12, although it prefers that we open a rulemaking "because a rulemaking or adjudication would still be required before any Commission decision could have a binding effect."

We open this Inquiry so that we may gather information about existing contracts between NYNEX, other incumbent LECs (ILECs) and their customers, and so that we may receive preliminary comments that may guide us in conducting a possible future rulemaking. A Commission Inquiry is governed by our procedural rules, Chapter 110, §§ 1201-1206.

A copy of the draft text of the rule proposed by Freedom Ring is attached as Exhibit 1.

I. FACTUAL ISSUES

There are several issues that parties should address in their comments.

1. What are the lengths of contracts for local (primarily Centrex) and toll (interexchange) services that are offered by ILECs?
2. Are contracting customers able to terminate existing long-term contracts? If so, are there penalty provisions or other payment requirements and what is the nature of those requirements?
3. Do long-term contracts provide an advantage to customers by providing pricing that is below prices that are available for shorter-term or day-to-day service? What is the magnitude of any such price advantage? Should such a price advantage, if established, affect whether a "fresh look" should be provided?
4. When should any such rule become effective?
5. To what contracts should any such rule apply? Note that Freedom Ring has proposed that it should apply to any contract between an ILEC and a customer that has a remaining term in excess of a year.
6. Should any such rule include an expiration date? If so, how long should the rule remain in effect?
7. Should the rule require that terms and prices of special contracts be made public as retail services available for resale under the Telecommunications Act of 1996?
8. Should the rule apply to interexchange services? Have IXCs entered into long-term contracts with their customers? If so, should the rule apply to both LECs (that provide interexchange services) and IXCs? Or should it apply to neither on the ground that the existence of both LEC and IXC long-term contracts indicates that customers did have competitive alternatives in the interexchange market?
9. Should a termination or renegotiation opportunity apply to services that were competitive when the customer and the ILEC entered into the long-term contract? Are Centrex services an example of a competitive service because of the availability of PBXs? Are toll services or certain segments of toll services (e.g., those targeted to high-volume users) an example of a competitive market? Are there other services that are competitive?
10. If the Commission finds that such a rule is warranted, should the Commission create a single opportunity for

customers to be freed from long-term contracts, with the period for that opportunity set well in advance to enable potential competitors to participate?

II. PRECEDENT

Have other states or the F.C.C. provided telephone customers with an opportunity to terminate or renegotiate long-term special contracts with ILECs? Have any states or the F.C.C. rejected requests for such an opportunity? Commenters should provide as much detailed information as is available and should identify (but not provide copies of) any relevant orders.

III. LEGAL ISSUE

Would providing telephone customers with an opportunity to terminate or renegotiate long-term special contracts with ILECs be lawful? Commenters should provide all relevant authority that addresses the specific issue of long-term contracts between utilities and their customers in emerging competitive markets.

IV. COMMENTS

Interested persons may file comments or answers to the above questions. An original and six copies of comments should be filed with the Administrative Director, Maine Public Utilities Commission, 18 State House Station, Augusta, ME 04333-0018 by May 16, 1997. Following review of those comments, we will decide whether to commence a rulemaking.

Accordingly, we

O R D E R

1. That an Inquiry is opened as described in the body of this Notice, pursuant to Part 12 of Chapter 110 of the Commission's Rules;

2. That the Administrative Director shall send copies of this Notice to all local exchange carriers authorized to operate in Maine.

3. That the Administrative Director shall send copies of this Notice to all entities that have petitions pending before the Commission for authority to provide competitive local exchange service in Maine; and

4. That the Public Information Coordinator shall post a copy of this Notice on the Commission's World Wide Web page (<http://www.state.me.us/mpuc/>).

Dated at Augusta, Maine this 23rd day of April, 1997.

BY ORDER OF THE COMMISSION

Dennis Keschl
Acting Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Hunt

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.